

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

ARZELL WILKERSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO 2:05-cv-1192-WKW
	)	WO
CAPITAL ONE BANK,	)	
	)	
Defendant/ Third Party Plaintiff,	)	
	)	
v.	)	
	)	
ANTHONY WILKERSON	)	
	)	
Third Party Defendant.	)	

**ORDER**

This cause is before the court on Third Party Plaintiff Capital One Bank's Motion for Default Judgment (Doc. #33) and Amended Motion for Default Judgment (Doc. #34). By its motion, Capital One seeks a default judgment against Third Party Defendant Anthony Wilkerson in the amount of \$52,980.86.<sup>1</sup> Capital One filed documents under seal showing that the balance on the credit card is \$30,890.89; that its attorneys' fees and costs in defending the original complaint and bringing the third party complaint were \$14,089.97,<sup>2</sup>

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<sup>1</sup> Arzell Wilkerson, Anthony Wilkerson's mother, filed suit against Capital One alleging that a line of credit was opened in her name with Capital One and that Capital One was liable for negligence, defamation, and violating the Fair Credit Reporting Act. Capital One then brought a third party complaint against Anthony Wilkerson who was served but never responded.

<sup>2</sup> Capital One is entitled to its attorneys' fees and costs in defending the complaint and bringing the third party complaint pursuant to the Customer Agreement that governs this credit card. The agreement is binding on "anyone . . . who uses the account in any way" and requires such an individual "to pay all court costs and collection expenses incurred by [Capital One] in the collection of any amount you owe us under

and that its compensatory damages were \$8,000.00.

A default was entered against Anthony Wilkerson by the Clerk of the Court on April 3, 2007. (Doc. # 23.) Although given an opportunity to do so, Wilkerson has not objected to an entry of default judgment and the award of damages, costs and injunctive relief against him. The court finds the damages, including attorney's fees and compensatory damages set forth in the documents filed under seal, are reasonable and due to be awarded. Accordingly, upon consideration of the motion and for good cause, it is hereby ORDERED that the Motion for Default Judgment (Doc. # 33) and Amended Motion for Default Judgment (Doc. #34) are GRANTED.

An appropriate judgment will be entered in accordance with this Order.

DONE this 26th day of November, 2007.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE

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this Agreement. If you default and we refer your account for collection to an attorney who is not our salaried employee, to the extent permitted by law, you agree to pay reasonable attorneys' fees." (Def's. Ex. A.) Because Anthony Wilkerson opened the credit card account here and used the card, he is bound by the Customer Agreement and, accordingly, liable for attorneys' fees.